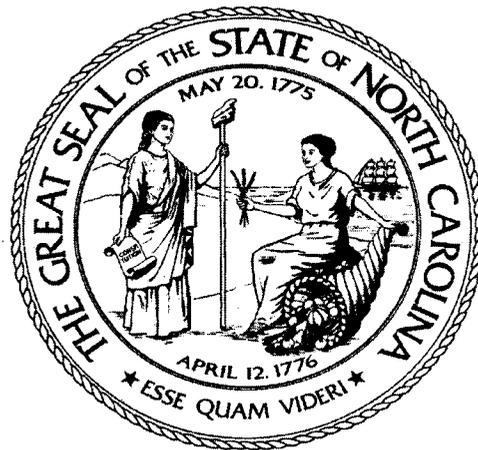


LEGISLATIVE RESEARCH COMMISSION

COMMITTEE ON OMNIBUS FOSTER
CARE AND DEPENDENCY

NORTH CAROLINA GENERAL ASSEMBLY



REPORT TO THE
2014 SESSION
of the
2013 GENERAL ASSEMBLY
OF NORTH CAROLINA

APRIL, 2014

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TRANSMITTAL LETTER

May 13, 2014

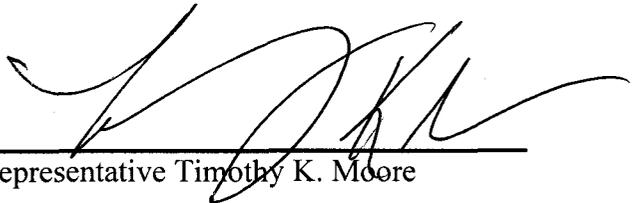
TO THE MEMBERS OF THE 2014 REGULAR SESSION
OF THE 2013 GENERAL ASSEMBLY

The Legislative Research Commission herewith submits to you for your consideration its report and recommendations to the 2014 Regular Session of the 2013 General Assembly. The report was prepared by the Legislative Research Commission's Committee on Omnibus Foster Care and Dependency, pursuant to G.S. 120-30.17(1).

Respectfully submitted,



Senator Thomas M. Apodaca



Representative Timothy K. Moore

Co-Chairs
Legislative Research Commission

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LEGISLATIVE RESEARCH COMMISSION MEMBERSHIP

2013 – 2014

Senator Thomas M. Apodaca
Co-Chair

Representative Timothy K. Moore
Co-Chair

Senator Phil Berger, Ex Officio
Senator Dan Blue
Senator Harry Brown
Senator Martin L. Nesbitt, Jr.

Representative Thom Tillis, Ex Officio
Representative John M. Blust
Representative Justin P. Burr
Representative Becky Carney
Representative Mike D. Hager

PREFACE

The Legislative Research Commission, established by Article 6B of Chapter 120 of the General Statutes, is the general purpose study group in the Legislative Branch of State Government. The Commission is co-chaired by the President Pro Tempore of the Senate and the Speaker of the House of Representatives and has five additional members appointed from each house of the General Assembly. Among the Commission's duties is that of making or causing to be made, upon the direction of the General Assembly, "such studies of and investigation into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner" (G.S. 120-30.17(1)).

The Legislative Research Commission authorized the study of **Omnibus Foster Care and Dependency**, under authority of G.S. 120-30.17(1). The Committee was chaired by Senator Shirley Randleman and Representative Sarah Stevens, Co-Chairs of the Committee. The full membership of the Committee is listed under Committee Membership. A committee notebook containing the committee minutes and all information presented to the committee will be filed in the Legislative Library by the end of the **2013-2014** biennium.

COMMITTEE PROCEEDINGS

The Legislative Research Commission's Committee on Omnibus Foster Care and Dependency met four times in the interim following the 2013 Regular Session. The Committee's charge can be found [here](#). The following is a brief summary of the Committee's proceedings. Detailed minutes and information from each Committee meeting are available in the Legislative Library or at the Committee's website.

January 21, 2014

The first meeting of the Committee on Omnibus Foster Care and Dependency took place at 2:00 p.m. in Room 544 of the Legislative Office Building on January 21, 2014. Senator Randleman and Representative Stevens, Co-Chairs of the Committee welcomed Committee members and members of the public. Members of the Committee introduced themselves and gave their backgrounds and interests and concerns in the areas of child welfare and foster care. The Committee then heard a presentation from Wendy Sotolongo, J.D., Parent Representation Coordinator, Office of Indigent Defense Services; Angenette ("Angie") Stephenson, Child Welfare Attorney, Office of the Attorney General; and Deana K. Fleming, Associate Counsel, Guardian ad Litem Services Division, North Carolina Administrative Office of the Courts. The presentation was an overview of abuse, neglect, and dependency law in North Carolina, covering the constitutional framework; prepetition – reporting and investigation/assessment; abuse, neglect, and dependency cases – hearings, timelines, and permanency options; termination of parental rights; and transition from foster care. Following the presentation, there was Committee discussion, and members requested follow up information from both the Department of Health and Human Services and the Administrative Office of the Courts.

February 18, 2014

The second meeting of the Committee took place at 2:00 p.m. in Room 414 of the Legislative Office Building on February 18, 2014. The Committee first heard a presentation from Deborah Landry, Fiscal Research Division and Committee Staff, on North Carolina's foster care budget. Then the Committee received information requested at the previous meeting from Kevin Kelley, Child Welfare Section, Division of Social Services, Department of Health and Human Services, including detailed information on CPS assessments with positive findings and additional data on children in the foster care system. The Committee also received follow up information from Deana Fleming on appeals in abuse, neglect, and dependency and termination of parental rights cases.

Mr. Kelley then gave a presentation on State oversight of county child welfare programs, which was followed by questions and discussion on oversight, inconsistencies between counties, and conflict of interest policies. Finally, the Committee heard a

presentation from Robby Hall, Director, Scotland County Department of Social Services and Tri-Chair, Child Welfare Subcommittee, North Carolina Association of County Directors of Social Services, on the North Carolina foster care system from a county administered social work perspective. The presentation was followed by additional Committee discussion.

March 18, 2014

The third meeting of the Committee took place at 2:00 p.m. in Room 414 of the Legislative Office Building on March 18, 2014. The Committee first received information requested at the previous meeting from Kevin Kelley including data on children maltreated in foster care, length of time children spend in foster care, number of children exiting the foster care system, number of children adopted by foster care parents, foster home licensure requirements, federal laws pertaining to foster care timelines, and the Department's child welfare case review instrument. It also received follow up information from Deana Fleming on continuances in abuse, neglect, and dependency and termination of parental rights cases.

The Committee then heard a presentation from Rebecca Troutman, Intergovernmental Relations Director, Association of County Commissioners, on child welfare services from the county perspective; Matt Anderson, Director, Planning and Sustainability, Children's Home Society of North Carolina, on the challenges and opportunities for children aging out of foster care; and Lauren Zingraff, SaySo Executive Director and Alumni Voices. Ms. Zingraff, along with three young adults currently or formerly in the foster care system, presented responses from a recent youth survey. SaySo (Strong Able Youth Speaking Out) is a youth driven advocacy organization comprised of young adults, ages 14-24, who are or have been in substitute care in North Carolina. The presenters summarized responses to questions about how they felt they had benefited from foster care, in what ways it was challenging, and what they would change about it to make young adults in foster care feel more "normal".

April 15, 2014

The fourth meeting of the Committee took place at 2:00 p.m. in Room 414 of the Legislative Office Building on April 15, 2014. The Committee heard a presentation on Colorado's child welfare system from Dr. Sharon Ford, Colorado State Department of Human Services, Child Welfare Division, Permanency Services Unit Manager.

After the presentation, the Committee discussed and approved its report to the Legislative Research Commission.

FINDINGS AND RECOMMENDATIONS

The Legislative Research Commission's Committee on Omnibus Foster Care and Dependency met four times in the interim before the 2014 Regular Session of the 2013 General Assembly. In these meetings, the Committee gathered information on laws pertaining to abuse, neglect, and dependency; data on children currently in the child welfare and foster care system; how abuse, neglect, and dependency cases move through the system, including investigations, adjudications, permanency planning, reunification, terminations of parental rights, and foster care and adoptive placements; the transitional period and issues facing children aging out of foster care and entering into adulthood; and systemic issues such as State oversight of the county administered child welfare and foster care system. The Committee heard from many interested parties and stakeholders, including the Department of Health and Human Services, Division of Social Services, county departments of social services, the Association of County Commissioners, experts in the areas of abuse, neglect, and dependency and aging out of foster care, current and former foster care youth, and others. In its study the Committee found that there are numerous issues facing children in the child welfare and foster care system today, and it is critical to improve outcomes for all children and families in North Carolina. Specifically, the Committee makes the following findings and recommendations:

FINDING 1: The Committee finds that North Carolina's county administered child welfare and foster care system may require additional State oversight in some areas. However, these issues more appropriately fall under the purview of the Joint Legislative Oversight Committee on Health and Human Services, rather than the charge of this Committee. The Committee is concerned with possible inconsistencies between counties in the delivery of services, conflicts of interest that may arise when employees of county departments of social services wish to serve as foster parents, and oversight of how policies are applied.

RECOMMENDATION 1: The Committee recommends that the Joint Legislative Oversight Committee on Health and Human Services study the issues of oversight and conflicts of interest. (SEE DRAFT 2013-LUz-142[v.2], APPENDIX D)

FINDING 2: The Committee finds that under current North Carolina law a juvenile petition must be verified under oath by the director of a department of social services in order to invoke subject matter jurisdiction. A petition that is filed without the required verification is inoperative, and any action taken in the case that stems from that petition is void. There have been instances where petitions were filed without the required verification, proceeded through the system, and were appealed and dismissed when the error was discovered years after the initiation of the case (see *In re T.R.P.*, 360 N.C. 588,

636 S.E.2d 787 (2006)). The Committee recognizes the importance of establishing subject matter jurisdiction in child abuse, neglect, and dependency cases, but also recognizes that these outcomes may be significantly damaging and disruptive to achieving permanence for a child in the system. The Committee finds that these disruptions can be minimized by amending the law to help identify and correct a failure to verify a petition early in the process.

RECOMMENDATION 2: The Committee recommends that the General Assembly adopt legislation to amend the pre-adjudication hearing requirements in the Juvenile Code to require the court to consider whether the petition has been properly verified and invokes jurisdiction. (SEE DRAFT 2013-SUZ-4[v.1], APPENDIX D)

FINDING 3: The Committee finds that its charge is very broad, and the issues facing the child welfare and foster care system are varied. While the Committee has begun collecting and analyzing information, more time is required to adequately study the system and make appropriate recommendations.

RECOMMENDATION 3: The Committee recommends that it be approved to hold additional meetings after the 2014 Regular Session of the 2013 General Assembly, so that it may report any additional recommendations to the 2015 Regular Session of the 2015 General Assembly.

COMMITTEE MEMBERSHIP

2013-2014

Senate Members:

Senator Shirley Randleman, Co-Chair

Senator Austin Allran
Senator Tamara Barringer
Senator Daniel Blue
Senator Gladys Robinson
Senator Thomas Apodaca, Ex Officio

House of Representatives Members:

Representative Sarah Stevens, Co-Chair

Representative Rob Bryan
Representative Carl Ford
Representative Jonathan Jordan
Representative Marvin Lucas
Representative Timothy Moore, Ex Officio

COMMITTEE CHARGE

Omnibus Foster Care and Dependency - The LRC Study Committee on Omnibus Foster Care and Dependency shall study comprehensively juvenile and family law pertaining to abuse, neglect, dependency, adoption, foster care and parental rights in the State. In conducting the study, the Committee shall consider issues related to the following:

- (1) The State's current laws regarding abuse, neglect, dependency, adoption, and foster care.
- (2) The impact of any federal laws on the issues of abuse, neglect, dependency, adoption, and foster care in the State.
- (3) The issue of reunification and how it relates to the best interest of the child standard.
- (4) The issue of termination of parental rights, specifically studying the process used in terminating a person's parental rights.
- (5) The manner in which other states and the US Congress have addressed parental rights.
- (6) Whether parental rights can be extended to individuals other than a child's biological parents.
- (7) What compelling government interests could justify interfering with parental rights.
- (8) The impact abuse, neglect, dependency, and foster care determinations have on adoptions.
- (9) Whether improvements are needed to current abuse, neglect, dependency, foster care, and adoption laws to ensure decisions made under those laws represent the best interest of the child.
- (10) A review of the vital records process, specifically regarding the timely issuance of a birth certificate upon the receipt of a final order for adoption.
- (11) The review of legislation adopted by other states relating to abuse, neglect, dependency, foster care, and adoption.
- (12) Any other issues pertinent to this study.

STATUTORY AUTHORITY

NORTH CAROLINA GENERAL STATUTES ARTICLE 6B.

Legislative Research Commission.

§ 120-30.17. Powers and duties.

The Legislative Research Commission has the following powers and duties:

- (1) Pursuant to the direction of the General Assembly or either house thereof, or of the chairmen, to make or cause to be made such studies of and investigations into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner.
- (2) To report to the General Assembly the results of the studies made. The reports may be accompanied by the recommendations of the Commission and bills suggested to effectuate the recommendations.
- (3), (4) Repealed by Session Laws 1969, c. 1184, s. 8.
- (5), (6) Repealed by Session Laws 1981, c. 688, s. 2.
- (7) To obtain information and data from all State officers, agents, agencies and departments, while in discharge of its duty, pursuant to the provisions of G.S. 120-19 as if it were a committee of the General Assembly.
- (8) To call witnesses and compel testimony relevant to any matter properly before the Commission or any of its committees. The provisions of G.S. 120-19.1 through G.S. 120-19.4 shall apply to the proceedings of the Commission and its committees as if each were a joint committee of the General Assembly. In addition to the other signatures required for the issuance of a subpoena under this subsection, the subpoena shall also be signed by the members of the Commission or of its committee who vote for the issuance of the subpoena.
- (9) For studies authorized to be made by the Legislative Research Commission, to request another State agency, board, commission or committee to conduct the study if the Legislative Research Commission determines that the other body is a more appropriate vehicle with which to conduct the study. If the other body agrees, and no legislation specifically provides otherwise, that body shall conduct the study as if the original authorization had assigned the study to that body and shall report to the General Assembly at the same time other studies to be conducted by the Legislative Research Commission are to be reported. The other agency shall conduct the transferred study within the funds already assigned to it.

LEGISLATIVE PROPOSALS

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

U

D

BILL DRAFT 2013-LUz-142 [v.2] (03/17)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
3/18/2014 11:15:57 AM

Short Title: Study Oversight/Conflicts of Int./Foster Care. (Public)

Sponsors: (Primary Sponsor).

Referred to:

A BILL TO BE ENTITLED

AN ACT REQUIRING THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON HEALTH AND HUMAN SERVICES TO STUDY OVERSIGHT OF THE STATE'S SOCIAL SERVICES SYSTEM, ANY POTENTIAL CONFLICTS OF INTEREST WITHIN THE SYSTEM, AND HOW THOSE MATTERS MAY BE ADDRESSED, AS RECOMMENDED BY THE LRC COMMITTEE ON OMNIBUS FOSTER CARE AND DEPENDENCY.

The General Assembly of North Carolina enacts:

SECTION 1. A subcommittee of the Joint Legislative Oversight Committee on Health and Human Services shall be created to study oversight of the State's social services system, any potential conflicts of interest within the system, and how those matters may be addressed. The Chair of the Joint Legislative Oversight Committee on Health and Human Services shall appoint members of the subcommittee and may appoint members of the public to the subcommittee in addition to any members of the General Assembly.

SECTION 2. In conducting the study, the subcommittee shall consider the following:

- (1) The State's oversight of county departments of social services, specifically regarding the delivery of services and the level of consistency in the delivery of services as between counties.
- (2) Whether the State's current system of oversight regarding county departments of social services should be revised.
- (3) What authority the State has to enact laws or adopt rules regarding the foster care system so as not to conflict with federal laws.
- (4) The current law, rules, or policies in place regarding a director or an employee of a county department of social services serving in the role of foster parent.
- (5) Whether a director or an employee of a county department of social services should be allowed to serve as a foster parent.
- (6) Any changes deemed necessary to current law, rules, or policies to avoid conflicts of interest if a director or an employee of a county department of social services serves as a foster parent.

1 (7) Any other issues specific to this matter the subcommittee deems
2 appropriate.

3 **SECTION 3.** The subcommittee of the Joint Legislative Oversight
4 Committee on Health and Human Services shall submit a final report of its findings and
5 recommendations to the Joint Legislative Oversight Committee on Health and Human
6 Services no later than December 1, 2014. The Joint Legislative Oversight Committee on
7 Health and Human Services shall submit a final report of its findings and
8 recommendations to the 2015 General Assembly, prior to its convening, by filing the
9 report with the President Pro Tempore of the Senate and the Speaker of the House of
10 Representatives.

11 **SECTION 4.** This act is effective when it becomes law.
12

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

U

D

BILL DRAFT 2013-SUz-4 [v.1] (03/26)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

4/1/2014 4:40:42 PM

Short Title: Verification/Jurisdiction in Juvenile Cases. (Public)

Sponsors: Unknown (Primary Sponsor).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE COURT TO CONSIDER WHETHER A JUVENILE
PETITION HAS BEEN PROPERLY VERIFIED AND JURISDICTION HAS
BEEN INVOKED AT THE PRE-ADJUDICATION HEARING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7B-800.1 reads as rewritten:

"§ 7B-800.1. Pre-adjudication hearing.

(a) Prior to the adjudicatory hearing, the court shall consider the following:

- (1) Retention or release of provisional counsel.
- (2) Identification of the parties to the proceeding.
- (3) Whether paternity has been established or efforts made to establish paternity, including the identity and location of any missing parent.
- (4) Whether relatives have been identified and notified as potential resources for placement or support.
- (5) Whether all summons, service of process, and notice requirements have been met.
- (5a) Whether the petition has been properly verified and invokes jurisdiction.
- (6) Any pretrial motions, including (i) appointment of a guardian ad litem in accordance with G.S. 7B-602, (ii) discovery motions in accordance with G.S. 7B-700, (iii) amendment of the petition in accordance with G.S. 7B-800, or (iv) any motion for a continuance of the adjudicatory hearing in accordance with G.S. 7B-803.
- (7) Any other issue that can be properly addressed as a preliminary matter.

(b) The pre-adjudication hearing may be combined with a hearing on the need for nonsecure custody or any pretrial hearing or conducted in accordance with local rules.

(c) The parties may enter stipulations in accordance with G.S. 7B-807 or enter a consent order in accordance with G.S. 7B-801."

SECTION 2. This act becomes effective October 1, 2014.

